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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2010 - 222

11 **RAUL ROBLES**
12 **15131 Kadota Street**
13 **Sylmar, CA 91342**

A C C U S A T I O N

14 **Registered Nurse License No. 669513**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs (Board).

21 2. On or about November 21, 2005, the Board issued Registered Nurse License Number
22 669513 to Raul Robles (Respondent). The Registered Nurse License was in full force and effect
23 at all times relevant to the charges brought herein and will expire on June 30, 2011, unless
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.
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1 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
2 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
3 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
6 to render a decision imposing discipline on the license. Code section 2811(b) provides, in
7 pertinent part, that the Board may renew an expired license at any time within eight years after
8 the expiration.

9 6. Code section 2761 states:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

13 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
14 functions.

15 7. Code section 2762 states:

16 "In addition to other acts constituting unprofessional conduct within the meaning of this
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
18 chapter to do any of the following:

19 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
20 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
21 administer to another, any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
23 defined in Section 4022."

24 8. California Code of Regulations, title 16, section 1443, states:

25 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
26 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
27 exercised by a competent registered nurse as described in Section 1443.5."

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1 9. California Code of Regulations, title 16, section 1443.5 states:

2 "A registered nurse shall be considered to be competent when he/she consistently
3 demonstrates the ability to transfer scientific knowledge from social, biological and physical
4 sciences in applying the nursing process, as follows:

5 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
6 and behavior, and through interpretation of information obtained from the client and others,
7 including the health team.

8 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
9 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
10 for disease prevention and restorative measures.

11 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
12 treatment to the client and family and teaches the client and family how to care for the client's
13 health needs.

14 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
15 subordinates and on the preparation and capability needed in the tasks to be delegated, and
16 effectively supervises nursing care being given by subordinates.

17 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
18 condition and behavior, signs and symptoms of illness, and *reactions to treatment* and through
19 communication with the client and health team members, and modifies the plan as needed.

20 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
21 health care or to change decisions or activities which are against the interests or wishes of the
22 client, and by giving the client the opportunity to make informed decisions about health care
23 before it is provided."

24 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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DRUG DEFINITIONS

11. **Percocet** – a Schedule II controlled substance pursuant to Health and Safety Code section 11055, and a dangerous drug pursuant to Business and Professions Code section 4022. It is a narcotic indicated for the relief of moderate to moderately severe pain.

12. **Vicodin** – a Schedule III controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022. It is a narcotic indicated for the relief of moderate to moderately severe pain.

13. **Morphine** – a Schedule II controlled substance pursuant to Health and Safety Code section 11055, and a dangerous drug pursuant to Business and Professions Code section 4022. It is a narcotic analgesic used for the relief of severe pain.

14. **Hydromorphone/Dilaudid** – a Schedule II controlled substance pursuant to Health and Safety Code section 11055, and a dangerous drug pursuant to Business and Professions Code section 4022. It is a narcotic analgesic used for the relief of severe pain.

HUNTINGTON MEMORIAL HOSPITAL

15. Respondent was employed as a registered nurse at Huntington Memorial 16. At all times relevant to the charges herein, Huntington Hospital used a drug dispensing system called the "Pyxis System". The Pyxis is a computerized automated medication dispensing machine. The user enters a password to gain access and dispense medication from the machine. The machine records the user name, patient name, medication, dose, date and time of the withdrawal. The Pyxis is integrated with hospital pharmacy inventory management systems.

17. On or about May 16, 2008, after appearing to be falling asleep during a shift report, Respondent was sent home and suspended the following day by Huntington Hospital. During his suspension, Huntington Hospital conducted an audit of the Pyxis System for the period of April 17, 2008 to May 15, 2008, and found the following discrepancies. Respondent resigned on May 20, 2008.

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PATIENT #754098

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-09-08 Percocet 5/325 PO every 4 hours (1 tab PRN, 2 tabs PRN severe pain)	05-12-08 2 tablets withdrawn by Respondent User ID 143398 at 08:37 hours	05-12-08 No record of Percocet administered to Patient by Respondent between 08:37 hours to 19:53 hours
<i>Total Unaccountable Drugs: Percocet 10 mg or 2 tablets</i>		

PATIENT #755982

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-08-08 Vicodin 5/500 PO (2 tabs PRN severe pain)	05-12-08 2 tablets withdrawn by Respondent User ID 143398 at 14:56 hours	05-12-08 No record of Vicodin administered to Patient by Respondent after 14:56 hours
<i>Total Unaccountable Drugs: Vicodin 10 mg</i>		

PATIENT #759616

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-10-08 Percocet 5/325 (2 tabs PRN moderate pain)	05-12-08 2 tablets withdrawn by Respondent User ID 143398 at 11:55 hours	05-12-08 No record of Percocet administered to Patient by Respondent at or after 11:55 hours
05-10-08 Percocet 5/325 (2 tabs PRN moderate pain)	05-12-08 2 tablets withdrawn by Respondent User ID 143398 at 16:55 hours	05-12-08 No record of Percocet administered to Patient by Respondent at or after 16:55 hours
<i>Total Unaccountable Drugs: Percocet 20 mg or 4 tablets</i>		

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PATIENT #761866

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-14-08	05-15-08	05-15-08
Morphine Sulphate (2 mg IV PRN for severe pain)	2 mg withdrawn by Respondent User ID 143398 at 09:02 hours	No record of Morphine Sulphate administered to Patient by Respondent after 09:02 hours
05-14-08	05-15-08	05-15-08
Hydromorphone (Dilaudid) (0.5 mg IVP severe/breakthrough pain)	2 mg withdrawn by Respondent User ID 143398 at 11:46 hours	No record of Hydromorphone administered to Patient at all
05-14-08	05-15-08	05-15-08
Hydromorphone (Dilaudid) (0.5 mg IVP severe/breakthrough pain)	2 mg withdrawn by Respondent User ID 143398 at 13:02 hours	No record of Hydromorphone administered to Patient at all
<i>Total Unaccountable Drugs: Morphine Sulphate 2 mg; Hydromorphone/Dilaudid 4 mg</i>		

PATIENT #761404

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-13-08	05-15-08	05-15-08
Percocet 5/325 (2 tabs PRN mild to moderate pain)	2 tablets withdrawn by Respondent User ID 143398 at 08:55 hours	No record of Percocet administered to Patient by Respondent at all
05-14-08	05-15-08	05-15-08
Morphine Sulphate (2 mg 1 ml disp syrin)	One 2 mg syringe withdrawn by Respondent User ID 143398 at 08:55 hours	No record of Morphine Sulphate administered to Patient at all
05-13-08	05-15-08	05-15-08
Percocet 5/325 (2 tabs PRN mild to moderate pain)	2 tablets withdrawn by Respondent User ID 143398 at 13:14 hours	No record of Percocet administered to Patient at all
<i>Total Unaccountable Drugs: Percocet 20 mg or 4 tablets; Morphine Sulphate 2 mg</i>		

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PATIENT #761398

Physician's Post-Order Records	Pyxis Activity Report	Medication Administration Record
05-13-08	05-15-08	05-15-08
Morphine Sulphate (6 mg IM PRN)	4 mg withdrawn by Respondent User ID 143398 at 08:59 hours	No record of Morphine Sulphate administered to Patient after 08:59 hours
05-13-08	05-15-08	05-15-08
Morphine Sulphate (6 mg IM PRN)	4 mg withdrawn by Respondent User ID 143398 at 12:01 hours	No record of Morphine Sulphate administered to Patient after 12:01 hours
<i>Total Unaccountable Drugs: Morphine Sulphate 8 mg</i>		

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Incompetence)

19. Respondent is subject to disciplinary action under Code section 2761, subdivision (a) on the grounds of incompetence as defined under California Code of Regulations, title 16, sections 1443 and 1443.5, in that between May 12, 2008 to May 15, 2008, Respondent withdrew controlled substances involving seven patients, but failed to administer the drugs to the patients or waste the drugs. A total of Morphine Sulphate 12 mg, Percocet 60 mg, Hydromorphone/Dilaudid 4 mg and Vicodin 10 mg were unaccountable from hospital records. Complainant refers to and incorporates all the allegations contained in paragraphs 15 – 18, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Illegally Obtained or Possessed Controlled Substances)

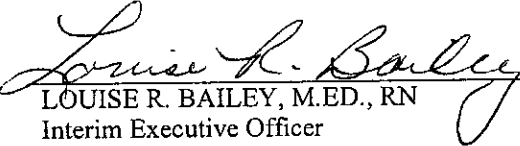
20. Respondent is subject to disciplinary action under Code section 2762, subdivision (a), for unprofessional conduct, in that between May 12, 2008 to May 15, 2008, Respondent withdrew controlled substances involving seven patients, but failed to administer the drugs to the patients or waste the drugs. A total of Morphine Sulphate 12 mg, Percocet 60 mg, Hydromorphone/Dilaudid 4 mg and Vicodin 10 mg were unaccountable from hospital records. Complainant refers to and incorporates all the allegations contained in paragraphs 15 – 18, as though set forth fully.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Revoking or suspending Registered Nurse License Number 669513, issued to Raul
5 Robles;
- 6 2. Ordering Raul Robles to pay the Board of Registered Nursing the reasonable costs of
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 10/22/09


12 LOUISE R. BAILEY, M.ED., RN
13 Interim Executive Officer
14 Board of Registered Nursing
15 Department of Consumer Affairs
16 State of California
17 Complainant

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